In the High Court of Punjab and Haryana at Chandigarh

CWP No. 17039 of 2006

Date of decision: 28.10.2006

Dharambir Singh

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. P.K. Sachdev, Advocate,

for the petitioner.

JUDGMENT

M.M. KUMAR, J. (Oral)

The challenge in this case is to the order dated 7.12.2004 (P-4) rejecting the claim of the petitioner for restoration of his seniority in his original depot, namely, Rewari. It is undisputed that the petitioner was appointed on the post of Fitter on 1.10.1985 in the Rewari Depot of Haryana Roadways. He made a request for his transfer to Narnaul Depot, which was accepted and accordingly he joined at Narnual on 1.10.1998. Subsequently, he again sought transfer by request to send him back from Narnaul to Rewari. Accordingly, he was sent back by transfer on mutual basis from Narnaul to Rewari. The respondents after following the instructions dated 23.5.1995 have considered the seniority of the petitioner on the post of Fitter from 27.11.1999 because it has been provided by those instructions that in case some official get his transfer from original depot on his request then he is to lose his seniority in his depot of

origin and his seniority is to be determined in the new depot from the date when he submitted his joining report. It is undisputed that the petitioner on both occasions sought transfer and re-transfer on request.

We find no merit in the argument that Satbir Singh, who has been promoted as Fitter has been granted the benefit of seniority despite the fact that he was transferred. The crucial distinction between the case of the petitioner and that of Satbir Singh is that Satbir Singh was transferred by respondent from Rewari Depot to Jind Depot on 1.8.1994 on the basis of longer stay. In other words, according to the instructions dated 23.5.1995 he maintained his seniority at Rewari Depot and his right of promotion were not to be adversely affected. Accordingly, his case was required to be considered on the basis of seniority in his original depot. Accordingly, he came back to his original depot Rewari and was given promotion according to rules. Similarly, Sunder Lal was also transferred to Narnaul Depot when some vehicles were transferred to that depot on 5.4.1997, without there being any request by him. Accordingly, his seniority was also required to be maintained at Rewari Depot. In the aforementioned circumstances, the cases of Satbir Singh and Sunder Lal are entirely on different footing then the case of the petitioner and there is no discrimination either violating instructions dated 23.5.1995 or Articles 14 and 16(1) of the Constitution. There is no merit in this petition. Accordingly, the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

October 28, 2006

Pkapoor